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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ LPA 300/2025, CM APPL. 28349/2025, CM APPL. 28350/2025 &
CM APPL. 28351/2025

NITIN SAXENA

.....Appellant

Through: Mr.Pawanjit Singh Bindra, Sr.Adv
with Mr.Madhu Sudan, Mr.Vikhyat
Oberoi and Mr.Ankit Kakkar, Adv.

versus

MUNICIPAL CORPORATION OF DELHI & ORS.Respondents

Through: Mr.Abhimanyu Bhandari, Ms.Devika
Mohan and Mr.Raghuveer Kapur,
Adv for R-2.

Mr.Amitabh Chaturvedi,
Mr.Chaitanya Madan, Mr.Vikram
Singh Nyal and Mr.Azam Khan, Adv
for R-3.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

ORDER

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09.05.2025

1. This *intra-court* appeal assails an order dated 30.04.2025, passed by the learned Single Judge in *CONT.CAS(C) 672/2025*, whereby, learned Single Judge has made certain observations which in our considered opinion are in aid of the order dated 14.12.2023, passed by the Writ Court in *W.P.(C) 16008/2023*. The learned contempt judge has further fixed the matter for compliance.
2. It has been argued by learned counsel appearing for the appellant that in

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fact by passing the order under challenge herein, the learned Single Judge has exceeded his jurisdiction available under the Contempt of Court Act, 1981, by issuing certain directions which are in excess of the directions issued by the Writ Court in its order dated 14.12.2023. His submission, thus, is that the only jurisdiction available for the Contempt Judge was to determine as to whether the order passed by the Writ Court is complied with, however, by issuing certain directions, learned Single Judge has erred in law and has exceeded his jurisdiction. On the other hand, learned counsel representing the respondent-Municipal Corporation of Delhi (MCD) has submitted that a perusal of the order under challenge herein, passed by the learned Single Judge, clearly reveals that the order does not contain any direction over and above the directions issued by the Writ Court *vide* its order dated 14.12.2023, and further that in view of the aforesaid, this *intra-court* appeal is not maintainable.

3. The issue relating to maintainability of *intra-court* appeal challenging an order passed by learned Contempt Judge is no more *res integra*. It rather has been settled by Hon'ble Supreme Court in the case of ***Midnapore peoples' Coop. Bank Ltd. v. Chunilal Nanda & Ors. (2006) 5 SCC 399***. In paragraph no.11, the Hon'ble Supreme Court has laid down principles on which an *intra-court* appeal can be entertained against an order passed by a Judge dealing with contempt matters. The principles as culled by Hon'ble Supreme Court in ***Midnapore (Supra)*** are clear. Interference in an *intra-court* appeal is permissible against an order passed by learned Single Judge only in case the learned Contempt Judge exceeds his jurisdiction as available to him under Section 12 of the Contempt of Court Act, 1981. In other words, in case, the order passed by the learned Contempt Judge contains any direction over

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and above the direction contained in an order in respect of which a contempt petition is filed, only in such a situation, interference by a Division Bench of this Court will be permissible.

4. On the aforesaid touchstone, as declared by Hon'ble Supreme Court for interference in an *intra-court* appeal against an order passed in contempt proceedings, if we examine the order under challenge herein, what we find is that learned Single Judge has though made certain observations, however, such observations in the facts of the case cannot said to be in any manner over and above directions already issued by the Writ Court *vide* its order dated 14.12.2023. Any order passed by learned Single Judge while exercising contempt jurisdiction, if is in aid of ensuring the compliance, in our opinion, the *intra-court* appeal would not be maintainable, unless the order passed by Contempt Judge exceeds the directions issued or observations made by the Writ Court in its order in respect of which contempt petition is instituted. The order dated 14.12.2023, has been extracted by learned Single Judge in the order under challenge herein, wherein, the Status Report filed on behalf of the MCD was taken note of and certain statements made by learned counsel representing the parties were also noted.

5. Ultimately, the Writ Court, noticing the statement made on behalf of MCD that appropriate action shall be taken in coordination with the local Station House Officer, a direction was issued to the SHO to render necessary assistance as may be required for the said purpose. The statement of the writ petitioner was also noticed by the Writ Court to the effect that writ petitioner's property was said to be itself an unauthorized construction, the learned Single Judge has observed that MCD is always at liberty to inspect the said property and take necessary action in accordance with law.

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6. Since the said order passed by Writ Court was not complied with, the contempt petition was filed whereby, after issuing the notices to the respective parties and recording certain submissions made by learned counsel for the parties, the Court has also noticed the stand taken on behalf of respondent no.2.

7. Learned Contempt Judge has also recorded a statement made on behalf of respondent no.2 in the contempt petition, who had stated that he did not have any objection to the contempt and supported the action of the demolition. The only observation which may be found recorded in the order passed by learned Contempt Judge is to the effect that in the process of demolition, the Executive Engineer shall ensure that the structural stability of the building is not affected. The other observation made therein is that MCD shall always be at liberty to inspect the said property and take necessary action in accordance with law.

8. In our opinion, if the aforesaid observations have been made in aid of ensuring the compliance of the order passed by the Writ Court, it cannot be said that the learned Contempt Judge has exceeded his jurisdiction in any manner, and accordingly in view of the law laid down by Hon'ble Supreme Court in *Midnapore (Supra)*, the instant Letters Patent Appeal is not maintainable which is hereby dismissed along with pending applications.

DEVENDRA KUMAR UPADHYAYA, CJ

TUSHAR RAO GEDELA, J

MAY 9, 2025/MJ

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